

### **REMARKS**

The following comments are responsive to the Final Office Action of November 16, 2009 (“Action”). Reconsideration and allowance are respectfully requested.

#### **Telephonic Interview**

Preliminarily, Applicants wish to thank the Examiner for the courtesies extended to their representatives during the telephonic interview on January 4, 2010. The following remarks include Applicants’ substance of interview pursuant to MPEP § 713.04. The pending claims and references cited in the Office Action mailed November 16, 2009 were discussed during the interview. No agreement was reached as to the allowability of the claims.

#### **Previously Filed Information Disclosure Statements**

Applicants respectfully request that the next Office Action indicate that the references submitted in the Information Disclosure Statement (IDS) filed December 7, 2006 have been considered. Accompanying the Office Action dated November 15, 2007, the Office lined through many of the references and alleged that copies of the references were not provided. The cited references can be accessed through Private Pair and hence were provided to the Office. Applicants respectfully request that the Office consider the cited references and indicate as such in the next Office Action.

#### **Rejections Under 35 U.S.C. § 103**

Claims 49-57 and 59-72 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Yeo et al. (US 6,219,837) and further in view of Lawler et al. (US 6,868,551).

The pending claims have been cancelled, thus rendering these rejections moot.

#### **New Claims**

New claims 73-92 have been added to the application. Support for these claims may be found at least in Figure 1 and in paragraphs 43-45 of the instant application. See U.S. 2003/0154479.

New claims 73-92 define over the references cited in the Action. For instance, the cited

references do not disclose the claim 73 method including the features of:

“ receiving a request to tune to a program being transmitted by a program provider, wherein the request is received after a start time of program transmission;  
determining that a user terminal has remained tuned to the program for a predetermined threshold amount of time;  
generating and communicating a request to the program provider to retrieve a copy of a portion of the program in response to the predetermined threshold amount of time being exceeded; and  
receiving the copy of the portion of the program, wherein the portion comprises the program transmitted between the start time and a receipt time of the request to tune to the program.”

Yeo does not disclose any such method. Yeo, for instance, discusses an interactive playback environment where a user may select on summary frames, also referred to as hyperlinks, to move to key events in a video program. *See* Yeo, C7, L18-43. Yeo does not disclose tuning to a program already in progress, and retrieving the portion of the program already broadcast in response to determining that a user has remained tuned to the program for a threshold amount of time. Lawler also does not remedy this deficiency. The Action relies on Lawler as purportedly disclosing a text summary of a program. *See* Action, p. 4. Even if true, a text summary would not remedy the deficiency in Yeo. As such, new claim 73 defines over the combination of Lawler and Yeo and is in condition for allowance.

New independent claims 80, 87, and 90 are allowable at least for reasons analogous to those given in support of claim 73.

The dependent claims that respectively depend from independent claims 73, 80, 87, and 90 are allowable at least due to their dependence on an allowable claim.

**Conclusion**

All rejections having been addressed, Applicants respectfully submit that the pending claims are in condition for allowance. A notice to this effect is respectfully requested. Please feel free to contact the undersigned should any questions arise with respect to this case that may be addressed by telephone.

Respectfully submitted,  
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Dated: February 16, 2010

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